

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FELICIA BYERS,)
)
Plaintiff,)
)
v.) C.A. No. 05-711 (GMS)
)
HSBC PAY SERVICES, INC.,)
)
Defendant.)

ORDER

WHEREAS the plaintiff filed the above-captioned discrimination action on September 29, 2005, which was more than 90 days after the issuance of her "right to sue" letter from the EEOC;

WHEREAS the defendant has moved to dismiss the suit as untimely;

WHEREAS the plaintiff has submitted several affidavits in support of her claim that she did not receive the letter until July 20, 2005;

WHEREAS the defendant requests limited discovery in the event the court determines that the plaintiff has made a prima facie showing that she did not receive the letter until that date; and

WHEREAS the court holds that although the plaintiff has in fact made a prima facie showing that she did not receive the letter until July 20, the defendants are entitled to test the assertions in her affidavits through limited discovery.

IT IS HEREBY ORDERED THAT:

1. The defendant's motion to dismiss (D.I. 4) be DENIED without prejudice; and
2. The defendant be GRANTED leave to take limited and appropriate discovery pertaining to the date the plaintiff received the letter.

Dated: March 30, 2006



UNITED STATES DISTRICT JUDGE